

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

FILED

JUL 12 2017

Clerk, U.S. District Court
District Of Montana
Helena

MONTANA CITY MEATS, INC., and
GARRY M. WHEELLOCK,

Plaintiff,

No. CV 16-02-H-SEH

vs.

ORDER

GARY HAMEL, Individually and as
Bureau Chief of the Meat Inspection
Bureau of the Montana Department of
Livestock, CHRISTIAN MACKAY,
Individually and as the Executive
Officer of the Montana Department of
Livestock, MONTANA
DEPARTMENT OF LIVESTOCK, a
state agency of Montana,

Defendants.

Pending before the Court are: (1) Plaintiffs' Motion for Partial Summary Judgment;¹ (2) Defendants' Motion for Summary Judgment;² Plaintiffs' Motion in Limine to Limit Defendants' Witnesses;³ and Defendants' motion in limine.⁴ A

¹ Doc. 56.

² Doc. 60.

³ Doc. 64.

⁴ Doc. 66.

proposed final pretrial order is due on or before August 11, 2017.⁵

The Second Amended Complaint filed August 5, 2016, alleges twelve counts, including claims under 42 U.S.C. § 1983, various state law claims, and a claim for punitive damages.⁶ Claims dismissed on April 25, 2017, were: Count IV, Civil Conspiracy; Count V, Defamatory Statements–Slander; Count VIII, Negligent Spoliation of Evidence; and Count IX, Intentional Spoliation of Evidence.⁷

Procedural matters central to the pretrial and trial phases of litigation are vested in this Court’s discretion.⁸ Specifically, “Federal Rule of Civil Procedure 42(b) permits a court to order a separate trial of separate claims or issues ‘[f]or convenience, to avoid prejudice, or to expedite and economize.’”⁹ Bifurcation of the federal § 1983 claims from the state law claims may be appropriate in this case.

⁵ Doc. 70 at 2.

⁶ Doc. 35.

⁷ Doc. 63.


⁸ See *Arakaki v. Lingle*, 477 F.3d 1048, 1069 (9th Cir. 2007); see also *Estate of Diaz v. City of Anaheim*, 840 F.3d 592, 601 (9th Cir. 2016).

⁹ *Estate of Diaz*, 840 F.3d at 601.

ORDERED:

1. Each party shall have to and including July 28, 2017, in which to file a statement of position brief directed to whether bifurcation of the federal claims from the state claims is warranted or appropriate.
2. Optional response briefs may be filed on or before August 4, 2017.
3. The Court will conduct a hearing on the bifurcation issue at 1:30 p.m. on August 8, 2017, at the Paul G. Hatfield Courthouse, Courtroom I, Helena, Montana.
4. The deadlines established by order of May 1, 2017,¹⁰ for an attorney's conference to discuss the final pretrial order preparation and for submission of a proposed final pretrial order are VACATED to be reset upon determination of the bifurcation issue.

DATED this 12th day of July, 2017.



SAM E. HADDON
United States District Judge

¹⁰ Doc. 70.